

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 06-17-04.

The IRO reviewed office visit, hot/cold pack therapy, electric stimulation unattended, manual therapy, aquatic therapy and physical performance test rendered from 02-16-04 through 05-13-04 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

The IRO determined that code **99214** on 02-16-04, code **G0283** on 02-17-04, 02-20-04, 02-24-04, 02-26-04 and 02-27-04, code **97140** on 02-17-04, 02-20-04, 02-24-04, 02-26-04 and 02-27-04, code **97113** (2 units) on 02-17-04 and 02-20-04, code **97113** (1 unit) on 02-24-04, 02-26-04 and 02-27-04 as well as code **97750** on 03-03-04 **were** medically necessary. The IRO determined that all other services **were not** medically necessary. The respondent raised no other issues for denying reimbursement for the above services.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 08-24-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT Code 99080-73 date of service 03-04-04 was denied as a "V". This service is a TWCC required report and is not subject to IRO review. The Medical Review Division has jurisdiction in this matter and, therefore, reimbursement is recommended in the amount of \$15.00.

### ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 02-16-04 through 03-04-04 in this dispute.

This Findings and Decision and Order are hereby issued this 7<sup>th</sup> day of October 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

## NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** August 20, 2004

**AMENDED DECISION**

**RE:**

**MDR Tracking #:** M5-04-3545-01

**IRO Certificate #:** 5242

\_\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Submitted by Requester:**

- MRI of the lumbar spine dated 6/18/01
- Lumbar myelogram dated 7/23/02
- Post discogram CT of the lumbar spine dated 10/16/02
- Medical records of \_\_\_\_\_ dates inclusive 1/6/03 through 5/14/04
- Medical records of \_\_\_\_\_ dates inclusive 1/13/03 through 4/24/03
- Medical records of \_\_\_\_\_ dates inclusive 2/7/03 through 3/1/04
- Medical records of \_\_\_\_\_ dated 3/5/03 and 4/11/03

### **Submitted by Respondent:**

- Explanation of benefits for dates of service 2/16/04 through 5/13/04

### **Additional Documentation:**

- Medical records of \_\_\_\_\_ dated 6/14/03

## **Clinical History**

The claimant is a 36 year old heavy machine operator who allegedly suffered a twisting injury to his neck and lower back on or about \_\_\_\_\_. The claimant entered into a course of conservative care following his date of loss. A lack of response resulted in multiple diagnostics, the most remarkable of which included a post discogram CT of the lumbar spine which was said to reveal concordant pain at L4/5. This resulted in a nucleoplasty on 11/27/02 and an IDET procedure performed on 4/11/03. Each procedure was followed by post operative outpatient rehabilitation. The claimant's unremitting pain resulted in a lumbar spinal surgery on or about 11/6/03, the attending physician was \_\_\_\_\_. On or about 11/26/03 the claimant saw \_\_\_\_\_ in follow up. At that time \_\_\_\_\_ recommended the claimant "continue to walk and work at home". The claimant was eventually cleared for formal outpatient rehabilitation and underwent a follow up re-evaluation with \_\_\_\_\_ on 2/16/04. \_\_\_\_\_ refers to a recommendation by \_\_\_\_\_ for this claimant to undergo 6 weeks of rehabilitation at 3 sessions per week. \_\_\_\_\_ reported he would adhere to the guidelines set forth by the \_\_\_\_\_ and the \_\_\_\_\_ of California. This will include aquatics, dynamic stabilization, cardiovascular exercises and therapeutic massage. The claimant followed up with \_\_\_\_\_ on 3/1/04. \_\_\_\_\_ reported "The claimant has been in the pool for 2 months. He is not yet doing land based exercises." He recommended land based exercises to begin on 3/29/04. Physical performance evaluations are performed by \_\_\_\_\_. On 3/2/04 the claimant had gained a slight increase in range of motion primarily in regard to flexion.

## **Requested Service(s)**

Office visit (99214), hot/cold pack (97010), electric stimulation unattended (G0283), manual therapy (97140), aquatic therapy (97113), physical performance test (97750).

## **Decision**

I agree in part with the carrier in their decision that chiropractic physical therapy services rendered from 2/16/04 through 5/13/04 were not medically necessary. The following services were reasonable and necessary. All other services were not, for reasons documented within the narrative:

1. CPT code 99213 on 2/16/04
2. CPT code G0283 (1 unit) on 2/17/04, 2/20/04, 2/24/04, 2/26/04 and 2/27/04
3. CPT code 97140 (1 unit) on 2/17/04, 2/20/04, 2/24/04, 2/26/04 and 2/27/04
4. CPT code 97113 (2 units) on 2/17/04 and 2/20/04
5. CPT code 97113 (1 unit) on 2/24/04, 2/26/04 and 2/27/04
6. CPT code 97750 on 3/3/04

## **Rationale/Basis for Decision**

This claimant has had an extensive amount of outpatient physical therapy. Prior to the dates in question he had at least 2 formal periods of post operative rehabilitation to include both aquatic exercises and land based exercises. Therefore, the assumption could be drawn that he was quite familiar with therapeutic exercises and self help measures in regard to his lumbar spine. Nevertheless, following the lumbar fusion of 11/6/03 it would be reasonable to reintroduce this

claimant to a formal rehabilitation program. However, on 11/26/03 \_\_\_\_\_ reported that the claimant was instructed to continue to walk and work at home. This comment implies the claimant was tolerating these procedures as early as 2 weeks post operative. Therefore, the extent of the outpatient rehabilitation the attending employed was excessive based upon the medical. This claimant should have responded to approximately 5 days of aquatics combined with electric muscle stimulation and manual therapy. Allowing one unit for unattended electrical muscle stimulation and manual therapy would be appropriate during the dates 2/17/04, 2/20/04, 2/24/04, 2/26/04 and 2/27/04. Quite frankly the documentation submitted by the attending fails to substantiate the medical need for manual therapy. Aquatic therapy during the dates in question would also have been appropriate; however, allowing for 2 units on 2/17/04 and 2/20/04 followed by one unit on 2/24/04, 2/26/04 and 2/27/04 should have sufficed. A transition to land based exercises should have been tolerated well based upon \_\_\_\_\_ impression on 11/26/03. A short course of either land based one on one or group exercises would have been appropriate in conjunction with the aquatics. The fact that the claimant was in the “pool for 2 months” appears inappropriate. The physical performance evaluation of 3/2/04 was reasonable as was the examination of 2/16/04 CPT code 99214. The hot/cold procedures, CPT code 97010, were inappropriate as this form of passive modality this late in a soft tissue injury is of minimal benefit and is easily applied at home.